

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Joseph Harry Lee, Jr.

Plaintiff,

v.

Case No. 09-14187

Commissioner of Social Security,

Honorable Sean F. Cox

Defendant.

ORDER
ADOPTING REPORT AND RECOMMENDATION

Plaintiff Joseph Harry Lee, Jr. ("Plaintiff") filed this action under 42 U.S.C. § 405(g), challenging a final decision of Defendant Commissioner denying his application for a period of disability and disability insurance benefits. The parties filed cross-motions for summary judgment based on the administrative record, which were referred to Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636 for issuance of a report and recommendation.

On September 8, 2010, Magistrate Judge Binder issued his report and recommendation ("R&R") wherein he recommends that the Court deny Plaintiff's Motion for Summary Judgment, and grant Defendant's Motion for Summary Judgment, because the Commissioner's determination is supported by substantial evidence.

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen days. "The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after

additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made." *Id.*

On September 22, 2010, Plaintiff filed timely objections to Magistrate Judge Binder's R&R. The Government filed a written response to those objections on October 4, 2010.

In his objections, Plaintiff notes that the ALJ found that claimant's carpal tunnel syndrome was not a severe impairment and asserts that finding ignored the great weight of the evidence.

Plaintiff did not, however, raise that argument in either his motion for summary judgment (Docket Entry No. 15) or in his response to the Government's cross-motion for summary judgment. (Docket Entry No. 23). As this argument was raised for the first time in Plaintiff's objections to Magistrate Judge Binder's R&R, the issue is waived. *Marshall v. Chater*, 75 F.3d 1421, 1426-27 (10th Cir. 1996); *Swain v. Commissioner of Social Sec.*, 2010 WL 2294534 (6th Cir. 2010).

The Court further finds Plaintiff's remaining objections to be without merit. This Court agrees with Magistrate Judge Binder's conclusion that substantial evidence supports the Commissioner's determination.

Accordingly, IT IS ORDERED that Magistrate Judge Binder's September 9, 2010 R&R is ADOPTED and Plaintiff's Objections are OVERRULED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is DENIED and that Defendant's Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: October 18, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 18, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager